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2 July 1975

MEMORANDUM FOR: Executive Secretary
Assistant to the Director
Deputy Director for Administration
Deputy Director for Intelligence
Deputy Director for Operations
Deputy Director for Science & Technology
D/DCI/IC
D/DCI/NIO
Legislative Counsel
Inspector General
Chief, Audit Staff
Comptroller
Administrative Officer, DCI

SUBJECT : Conflict of Interest -- Employment and Financial
Interest Statements

REFERENCE : Memo for same addressees, fm General Counsel
dtd 19 June 1975, Subj: Conflict of Interest

1. Since the referent memorandum was distributed, this Office has received a number of inquiries concerning whether certain individuals should file, what form should be used, who should retain the forms, when should the forms be destroyed and so forth. The purpose of this memorandum is to provide some guidelines, and where possible, some specific answers to the various questions raised.

2. With regard to the question of "who should file," referent indicates that employees paid at a level of the Executive Schedule must file. I will examine all such statements and send those of the Deputy Directors forward to the Director of Central Intelligence for his review. These statements should be sent to me marked PERSONAL, CONFIDENTIAL and EYES ONLY. I will retain

these statements in a similarly marked file. All statements, original and supplementary, will be retained for a period of at least one year after the individual filing the statements has either left the Agency or no longer holds an executive position.

3. As a suggested rule of thumb, Deputy Directors should consider having all heads of offices and staffs and their deputies file statements of employment and financial interest. These statements should be reviewed by the Deputy or Associate Deputy Director in accordance with referent and should be retained in the Office of the Deputy Director for a period of at least one year after the employee leaves the position, unless the individual transfers to a similar or is promoted to a higher position. In the Directorate for Operations and perhaps in the Directorate for Science and Technology, the Chiefs of Support of various offices and staffs should, as a suggested rule of thumb, also be asked to file.

4. Beyond this point, the question of "who should file" rests with you. An employee paid at the grade of GS-13 or above must file if he or she is in a position the basic duties and responsibilities of which require the exercise of judgment in making a Government decision or in taking Government action on contracting or procurement, administering or monitoring grants or subsidies, regulating or auditing private or other non-Federal enterprises, or other activities when the decision or action has an economic impact on the interests of any non-Federal enterprise. Because of the mission and functions of the Agency, I am interpreting "non-Federal enterprise" to mean business enterprises of any type, partnerships, non-profit organizations and educational or other institutions whose headquarters are located within the United States or its possessions and territories. (Any individual filing a statement must still list employment and financial interests in non-U.S. organizations in Part I of the statement.) I have suggested to [redacted] that in drafting a new regulation covering employee conduct and conflict of interest, he should add a provision whereby an employee assigned to a foreign country is prohibited from engaging in a commercial enterprise of any type located in the country of assignment. Our employees would be restricted in the same manner as are State, AID and USIA employees, who may not engage in any commercial enterprise in the country of their assignment. (See 22 C.F.R. 10.735-206(b) (1975).)

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5. Several individuals have asked if employees who indirectly participate in decisions having an economic impact on non-Federal enterprises or who, as part of their assignments, acquire proprietary information, should also file employment and financial statements. I believe it is prudent to "err on the side of caution" and ask such employees to file. Therefore, on a staff such as the IC Staff, employees recommending program decisions or who routinely have access to information concerning such decisions should file, as should, for example [redacted] the Office of Finance, or the Office of Research and Development who acquire trade secrets or commercial or financial information from a representative of a U.S. enterprise, etc., which is not in the public domain and which is given to the Agency on a privileged or confidential basis. Employees responsible for contracting, whether for Agency or community programs, should, of course, file. Deputy Directors may, however, exclude certain of these employees from filing if they make a determination that their duties are such that the likelihood of a conflict of interest involvement is remote or that they are at such a level of responsibility that filing is unnecessary because of the degree of supervision and review that exists over them (including the consideration of the inconsequential effect on the integrity of the Government). I would appreciate receiving a copy of such determinations. (An employee who feels his position has been improperly designated as one that requires the filing of a statement is entitled to a review of the requirement under the Agency's grievance procedure.)

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6. I suggest that employees designated to file statements who are below the position of head of an office or staff (or a deputy), should have their statements reviewed and approved by the head of the office or staff concerned. In certain circumstances, the statements of certain employees may be reviewed by the Deputy or Associate Deputy Director. The latter procedure may be desirable where individuals exercise contracting authority or program management responsibility delegated to them from a Deputy Director.

7. For 1975, employees should continue to use Agency Form 2630 (4-66) to report employment and financial interests. It is not necessary to have the form reviewed by an "operating official" but the approving officer should note the approval date and sign the statement as the "responsible authority." If an employee does not have information available to him by 31 July, which is

accurate as of 30 June, he or she should note the name and address of the person who has been asked to supply the information, as well as the type of information and the date it was requested. Missing information should be reported as soon as it becomes available.

8. If there are any further questions, please contact either [redacted] or me. Please be assured that I would not at this time be asking for your personal attention to this matter unless it was important. I thank you for your cooperation and for the constructive suggestions we have received.

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JOHN S. WARNER
General Counsel

cc: DCI
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